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CIA Sought Retroactive Approval

Reagan Did Not Sign 1st 'Finding' Drafted For Iran Arms Deal

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In late November 1985, CIA Director William J. Casey and his general counsel, Stanley Sporkin, proposed to the White House an intelligence authorization that would retroactively legalize any "prior actions taken by government officials" in the secret sale of weapons to Iran, according to two sources who have read the document.

When asked by the Senate Select Committee on Intelligence in a recent closed hearing about the legal reasoning behind the Central Intelligence Agency's proposal, Sporkin testified that the president has constitutional powers to grant pardons and therefore could declare an action legal after the fact.

Sporkin, now a U.S. District Court judge here, confirmed last night in a telephone interview that he had written such a draft intelligence order. "I was given fragmentary information at the time which led me to the conclusion that we needed a presidential finding to authorize the agency's activity, and ratify all action that had been carried out," he said.

Sources said Sporkin testified before the Senate intelligence committee that it was not unusual in the corporate world for someone in authority to bless an activity retroactively. The alternative, Sporkin told the committee, would be to back-date documents, which Sporkin said he would consider improper.

The proposed "finding," as a presidential authorization for an intelligence action is officially known, was sent by Casey to Vice-Adm. John M. Poindexter, who was then deputy national security adviser.

President Reagan never signed this draft; a revised version dated Jan. 17, 1986, was signed by the president, secretly authorizing the sale of U.S. weapons to Iran and ordering the CIA not to disclose the operation to Congress, which didn't learn of it until last November.

Retroactive approval was not included in the Jan. 17 finding that Reagan signed, sources said.

Sporkin's draft finding regarding Iranian arms transactions was a one-page order dated Nov. 25, 1985, which said that "prior actions taken by government officials are hereby ratified." The document was drafted after then-CIA Deputy Director John N. McMahon discovered that the agency had provided assistance to Lt. Col. Oliver L. North, then a staff aide of the National Security Council, in shipping missile parts to Iran as part of an attempt to free American hostages held in Lebanon.

U.S.-made missiles had first been shipped to Iran by Israel with secret White House approval in September 1985. Subsequent shipments of more than 2,000 TOW antitank missiles were made in 1986 until the operation was publicly disclosed last November.

The draft order written by Sporkin—which is documented in a lengthy but still unreleased report of the Senate intelligence committee—was indicative of what one former CIA official yesterday described as "bad legal advice" provided to Casey by Sporkin and the CIA general counsel's office during the early months of the Iran operation.

Sporkin testified that he wanted to ensure that the CIA was properly protected legally because he understood that the assistance provided North had been authorized by the White House and conformed with Reagan's wishes, according to informed sources. It is unclear whether Casey, who is recuperating from recent brain tumor surgery, was questioned about the document when he appeared before the Senate committee.

It was also learned yesterday that CIA officials at the operational level had "clues" earlier than has been publicly acknowledged that money generated from U.S. arms sales to Iran was moving into nonagency accounts abroad.

A former CIA official who has seen the stacks of documents and

testimony provided to the Senate committee, said, however, that there was no indication in this record that the CIA was involved in the diversion of the funds or that intelligence officials knew that the money was being diverted to aid the contra rebels fighting the government of Nicaragua, as Attorney General Edwin Meese III said in November.

"Every so often there would be a glimpse of money moving into accounts other than CIA accounts," the former agency official said. "They knew that outside the government money was going somewhere."

Information available up to now has suggested that the CIA's first knowledge that funds were being diverted abroad through the arms sales to Iran came early last October. Casey said last month that his first tip about this occurred at that time, when a Canadian business acquaintance, Roy Furmark, told him some of the profits earned by middlemen involved in the arms sales may have been diverted to aid the contras.

The CIA's role in the secret shipment of U.S. arms to Iran in 1985 and 1986 is detailed in the Senate committee's declassified report. On Monday, the report was caught up in partisan wrangling in the Senate, when Republicans on the intelligence committee were unable to muster enough votes to force its release, despite a plea from the White House.

Overall, according to the source, the report depicts the CIA as too passive in not maintaining control of U.S. covert operations and relinquishing some of that responsibility to the National Security Council staff. Once Casey gave his backing to the Iranian initiative, the agency began to play an active supporting role.

The Senate report portrays the agency as providing logistical backup, such as setting up bank accounts into which money to reimburse the U.S. government could be paid, but apparently not raising serious questions about the NSC's covert program until at least the middle of 1986.

The agency's role in the covert Iranian program will be a prime focus of the coming House and Senate special inquiries into the Iran arms sales-contra aid affair. Under the 1980 law that gives Congress oversight of covert actions, the CIA is supposed to provide timely notification of all such clandestine operations; there has been bipartisan criticism of the administration for withholding that notification in this episode for at least 10 months.

According to one source familiar with the Senate committee's report, the panel did not determine what happened to the funds raised privately on behalf of the contras. One reason was that the CIA was cut out of this knowledge under the system of middlemen through which the NSC carried out the arms sales to Iran.